SENATE RECORD VOTE ANALYSIS

104th Congress — July 10, 1996, 1:23 p.m.
2nd Session — **Vote No. 191** — Page S-7619 Temp. Record

TEAM ACT/Final Passage

SUBJECT: **Teamwork for Employees and Management (TEAM) Act of 1995 . . . S. 295. Final passage, as amended.**

ACTION: BILL PASSED, 53-46

SYNOPSIS: As passed, H.R. 743, the Teamwork for Employees and Management (TEAM) Act of 1995, will amend the National Labor Relations Act (NLRA) to clarify that an employer may establish and participate in worker-management cooperative organizations to address matters of mutual interest to employers and employees. Such organizations will not be permitted to enter into or to negotiate collective bargaining agreements, or to amend existing agreements. The bill will not affect an employee's right to choose an independent union to engage in collective bargaining. Specifically, section 8(a)(2) will be amended by adding the following: "it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer to establish, assist, maintain, or participate in any organization or entity of any kind, in which employees who participate to at least the same extent practicable as representatives of management participate, to address matters of mutual interest, including, but not limited to, issues of quality, productivity, efficiency, and safety and health, and which does not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer and any labor organization, except that in a case in which a labor organization is the representative of such employees as provided in section 9(a), this proviso shall not apply;".

Those favoring final passage contended:

H.R. 743 will amend an antiquated labor law that is standing in the way of increased productivity and worker health and safety. That law is section 8(a)(2) of the National Labor Relations Act (NLRA). Section 8(a)(2) prevents employers from setting up and controlling collective bargaining units. It was enacted to stop employers from creating sham, "company" unions as a means of avoiding negotiations with real unions. The law was drafted so as to limit very strictly the ability of managers and workers to meet outside of a union setting. In the 1930s the strictness of this law was appropriate because adversarial worker-management relations

(See other side)

YEAS (53)

Republicans (51 or 98%)		Democrats (2 or 4%)
Abraham	Hutchison	Hollings
Ashcroft	Inhofe	Nunn
Bennett	Jeffords	
Bond	Kassebaum	
Brown	Kempthorne	
Burns	Kyl	
Chafee	Lott	
Coats	Lugar	
Cohen	Mack	
Coverdell	McCain	
Craig	McConnell	
D'Amato	Murkowski	
DeWine	Nickles	
Domenici	Pressler	
Faircloth	Roth	
Frahm	Santorum	
Frist	Shelby	
Gorton	Simpson	
Gramm	Smith	
Grams	Snowe	
Grassley	Specter	
Gregg	Stevens	
Hatch	Thomas	
Hatfield	Thompson	
Helms	Thurmond	
	Warner	

NAYS (46)

Republicans (1 or 2%)	Democrats (45 or 96%)	
Campbell	Akaka	Inouye
	Baucus	Johnston
	Biden	Kennedy
	Bingaman	Kerrey
	Boxer	Kerry
	Bradley	Kohl
	Breaux	Lautenberg
	Bryan	Leahy
	Bumpers	Levin
	Byrd	Lieberman
	Conrad	Mikulski
	Daschle	Moseley-Braun
	Dodd	Moynihan
	Dorgan	Murray
	Exon	Pell
	Feingold	Pryor
	Feinstein	Reid
	Ford	Robb
	Glenn	Rockefeller
	Graham	Sarbanes
	Harkin	Simon
	Heflin	Wellstone
		Wyden

NOT VOTING (1)

Republicans (1)	Democrats (0)
Cochran-[2]	

EXPLANATION OF ABSENCE:
1—Official Buisiness
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

were the norm. Today, though, companies with such relations do not survive. To compete, companies increasingly must have cooperative, "team" efforts between workers and managers. They must be allowed to discuss all issues related to productivity, including workplace safety and health issues, if they are going to remain competitive. Under the NLRB, only the 12 percent of the private sector workforce that is unionized may engage in those types of discussions with managers. Passing this bill will give that right to all American workers.

In the past few years, team efforts have greatly expanded in America. Thirty thousand employers, including nearly all large employers in America, now have in place teamwork programs, and they report that most recent gains in productivity have been due to those programs. Some of those efforts have been challenged, and the National Labor Relations Board, in applying the 1930s standard, has ruled that many of them are illegal. The NLRB's recent rulings have put these businesses in a dilemma. Though there is some uncertainty, they know that they are probably violating the law, but they also know that in order to remain competitive they need to continue involving employees in decisions. They have a choice of stagnation and possible bankruptcy or of violating the law and possibly being hauled into court. They should not be in this dilemma. The TEAM Act should be enacted.

The NLRB's decisions have not been entirely consistent, but they have generally placed very strict limitations on what managers and nonunionized employees may discuss. Subjects that it has said may be discussed include the following: the institution of formal break periods; bonuses given as gifts; discontinuance of purchase of coffee supplies; security cameras to protect against shoplifting; and areas in which employees may play card games. Subjects that it has said may not be discussed include the following: decreasing the length of a break period; increasing the length of a lunch break; paid holidays; flexible work schedules; merit wage increases; free coffee; safety labelling of electrical breakers; tornado warning procedures; rules about fighting; safety goggles for fryer and bailer operators; reading materials in the bathroom; shift differentials; larger smocks for pregnant employees; day care; sponsoring a company softball team; no-smoking policies; rules about parking; and hiring of employees with disabilities. Managers, of course, are free to make up rules as they please on any of these subjects; in most cases, they are just not allowed to discuss them with the people to whom they are going to apply.

American companies have only recently embraced the concept of involving employees in management decisions. Japanese and European companies, on the other hand, have long had such involvement. The idea for cooperative teams developed in American universities after World War II, but it was ignored in this country. America's economic competitors, though, accepted it, and as a result soon began to outproduce American companies. Some industries, including the steel and auto industries, were nearly destroyed before they belatedly began teamwork programs. Interestingly, the strongest opponents of teamwork in America have been the unions. They have insisted on maintaining the old, adversarial relationship. Worldwide this attitude does not prevail among unions. In Japan and Europe, where most people belong to unions (compared to only the 12 percent private-sector membership in this country) unions work cooperatively with managers to increase production.

Unfortunately, Democrats have been given their marching orders by the union lobbyists. Though we believe that many of our Democratic colleagues are well aware of not only the benefit, but the actual need, for this legislation in order for America to remain competitive in the world, they do not dare do anything that the unions tell them they may not. Unions are against this bill because they are determined to retain the adversarial relationship between management and labor. They are making a terrible mistake. In Europe and Japan, where teamwork has long been the norm, unions are strong and thriving. In America, where dinosaur union bosses have clung to the "us versus them" mentality, they are declining drastically. Our Democratic colleagues do not have enough votes to stop this bill, but they do have enough to sustain a veto. We urge them to reconsider. For America's competitiveness, for the benefit of workers, and even to help America's antiquated unions despite themselves, we urge them to support this bill.

Those opposing final passage contended:

This bill is yet another assault by our Republican colleagues on trade unionism in America. They are addressing a non-existent problem in order to allow companies to set up sham unions that they will control as a substitute for real representation for workers. We have nothing against workers and managers meeting to discuss issues related to productivity, and we in fact strongly encourage such discussions. The more that they work together, whether in a union or nonunion setting, the more competitive they will become. However, that does not mean that issues that belong in a collective bargaining session should be discussed. When issues such as wages, vacation, workplace conditions, and other similar issues are discussed, workers and managers need to be on an equal footing. That equal footing can only be provided by a union. If a business is allowed to pick the employees with whom it deals, and to decide the agenda of all meetings, and to control in every other way a team that it sets up, it will have an insurmountable advantage in negotiations. Production may increase, with all the benefits going to the owners and none of the benefits going to the workers. It is due to this basic reality that section 8(a)(2) was originally enacted, and which is still very much necessary. American corporations have been conducting a relentless war against unions in recent years, and they have been succeeding. Union membership is rapidly dwindling. This bill will accelerate that decline by giving companies the right to negotiate with teams that they control on collective bargaining issues like health and safety. We cannot vote to further weaken unions, thus leaving employees at the mercy of employers, and must therefore vote against passage.